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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

Maria Molina,

Plaintiff,

v.

Colette Peters, Oregon Department of Corrections (ODOC); Brian Belleque, ODOC Deputy Director (past); Heidi Steward, ODOC Deputy Director (current); Paula Myers, Superintendent Coffee Creek Correctional Facility (CCCCF); MICHAEL GOWER, ODOC Assistant Director of Operations; ROB PERSSON, ODOC Westside Institutions Administrator; ERICKA SAGE, ODOC PREA Coordinator; DAWNELL MEYER, ODOC Behavioral Health Services Administrator; RICHARD STEPHEN ALBERTS, JR., ODOC Correctional Officer; JASON BATTIN, ODOC Correctional Officer; MICHAEL

Case No. 2:20-cv-01195-AC

DEFENDANT BATTIN'S ANSWER AND
AFFIRMATIVE DEFENSES

Jury Trial Requested

YANEZ, ODOC Correctional Officer;
SHERRI KILGORE, ODOC Correctional
Officer; ANTHONY ROSS, ODOC
Correctional Officer; JACK ROWLETT,
ODOC Correctional Officer; TANYA
SIMMONS, ODOC Correctional Officer;
JENNIFER ELGIN, ODOC/CCCF
counselor; T. PLUMBER, ODOC SUI
Investigator; ALEX DORAN, Correctional
Officer; JASON WILSON, Correctional
Officer; SHANNON MECHAM, Correctional
Officer; MICHAEL S CRANFORD,
Correctional Officer;
JOHN/JANE DOE, ODOC/ SIU
Investigators; JOHN/JANE DOE,
ODOC/CCCF Correctional Officers;
JOHN /JANE DOE, Security Staff; JOHN
/ JANE DOE, ODOC Medical Staff; and
State of Oregon, each sued in their
individual and official capacities,

Defendants.

Defendant Jason Battin, by and through the undersigned, in response to Plaintiff's First Amended Complaint, admits, denies, and alleges as follows.

GENERAL RESPONSE

Defendant Battin denies each and every allegation of Plaintiff's First Amended Complaint not expressly admitted herein.

PARTIES

1.

Defendant Battin admits that he serves as a correctional officer with the Oregon Department of Corrections ("ODOC") at Coffee Creek Correctional Facility ("CCCF") in Wilsonville, Oregon. Defendant Battin has been employed with ODOC since 2003.

2.

Defendant Battin admits that Plaintiff Mariah Molina, SID #19591143, is currently incarcerated with ODOC, was admitted to the custody of ODOC on October 9, 2017, and has an earliest release date of life.

FACTUAL ALLEGATIONS

3.

Defendant Battin denies he engaged in sexual conduct with Plaintiff.

4.

To the extent the remainder of Plaintiff's allegations do not constitute legal arguments to which no response is required, Defendant Battin lacks sufficient knowledge to admit or deny the allegations at this time and therefore denies the same.

FIRST AFFIRMATIVE DEFENSE

Failure to State a Claim

4.

Plaintiff fails to state a claim upon which this Court can grant relief under one or more of the theories set forth in the First Amended Complaint.

SECOND AFFIRMATIVE DEFENSE

Qualified Immunity

5.

Defendant Battin alleges that at all times relevant to Plaintiff's First Amended Complaint, he was acting in good faith and within his discretion pursuant to the laws and statutes of the State of Oregon and the United States, and that his conduct violated no clearly established statutory or constitutional rights of which a reasonable official would have knowledge.

THIRD AFFIRMATIVE DEFENSE

Eleventh Amendment Immunity

6.

Defendant Battin alleges he is immune from suit in federal court and protected under Eleventh Amendment immunity as to federal law claims against his in his official capacity and as to state and common law claims.

FOURTH AFFIRMATIVE DEFENSE

Statute of Limitations

7.

All allegations outside of the statute of limitations period are barred.

FIFTH AFFIRMATIVE DEFENSE

Oregon Tort Claims Act (“OTCA”)

8.

With respect to state or common law claims, Defendant Battin asserts all provisions of the Oregon Tort Claims Act (“OTCA”) to such claims, including, but not limited to, the provisions requiring timely and proper tort claim notice.

SIXTH AFFIRMATIVE DEFENSE

Prison Litigation Reform Act (“PLRA”)

9.

Defendant Battin asserts all provisions of the Prison Litigation Reform Act (“PLRA”), including the provision requiring exhaustion of administrative remedies, to Plaintiff’s claims.

RESERVATION OF ADDITIONAL DEFENSES

10.

Defendant Battin reserves the right to assert additional defenses as may become known to him through investigation and discovery.

JURY TRIAL DEMAND

11.

Defendant Battin demands a jury trial.

WHEREFORE, having fully answered Plaintiff's First Amended Complaint herein, Defendant Battin prays for a judgment in his favor, for dismissal of Plaintiff's First Amended Complaint with prejudice and in its entirety, for an award of costs and disbursements incurred herein, and for such other and further relief as the Court may deem appropriate.

DATED November 9, 2020.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General

s/ Jessica Spooner
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Kilgore, Mecham, Meyer, Myers, Persson, Peters,
Plummer, Ross, Rowlett, Sage, Simmons,
Steward, Wilson, and Yanez

CERTIFICATE OF SERVICE

I certify that on November 9, 2020, I served the foregoing
DEFENDANT BATTIN'S ANSWER AND AFFIRMATIVE DEFENSES
upon the parties hereto by the method indicated below, and addressed to the following:

Ginger G. Mooney
Ginger G. Mooney, LLC
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Hood River, OR 97031
of Attorneys for Plaintiff

☐ HAND DELIVERY
☐ MAIL DELIVERY
☐ OVERNIGHT MAIL
☐ TELECOPY (FAX)
☐ E-MAIL
☒ E-SERVE

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Pro se Defendant

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s/ Jessica Spooner

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